REGULATIONS GOVERNING STORMWATER MANAGEMENT

§ 999-1. General Provisions

A. Purpose & Authority

The following Regulations are hereby adopted by the Stormwater Authority, as provided in Chapter 114 Stormwater Management of the Code of Lexington.

B. Adoption & Amendment

These Regulations and fee schedules may be periodically amended by the Stormwater Authority in accordance with the procedures outlined in Section 114-5 of the Stormwater Management Bylaw.

C. Effective Date

These Regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as the date of adoption, date filed with the Town Clerk and any amendments.

§ 999-2. Definitions

The definitions contained here apply to issuance of a Stormwater Management Permit (SMP) established by the Town of Lexington Stormwater Management Bylaw and implemented through these Stormwater Management Regulations. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

ABUTTER: A property owner (a) directly abutting a proposed project (b) across a public or private street from a proposed project or (c) abutting an abutter if such is within 300 feet of the proposed project.

APPLICANT: A property owner or Agency of a property owner who has filed an application for a Stormwater Management Permit.

BETTER SITE DESIGN: Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural Stormwater Management practices. Better site design includes conserving and protecting natural areas and green space, reducing impervious cover, and using natural features for stormwater management.

CERTIFICATE OF COMPLETION (COC): A document issued by the Stormwater Agency after all construction activities have been completed which states that all conditions of an issued Stormwater Management Permit have been met.

CONVEYANCE: Any structure or device, including pipes, drains, culverts, curb breaks, paved swales or man-made swales of all types designed or utilized to move or direct stormwater runoff or existing water flow.

DEVELOPER: A person who undertakes or proposes to undertake land disturbance activities.

DRAINAGE EASEMENT: A legal right granted by a landowner to a grantee allowing the use of private land for Stormwater Management purposes.

GRADING: Changing the level or shape of the ground surface.

EROSION CONTROL: The prevention or reduction of the movement of soil particles or rock fragments due to stormwater runoff.

EROSION CONTROL PLAN: A plans that shows the location and construction detail(s) of the erosion and sediment reduction controls to be utilized for a construction site during and after construction.

FLOOD CONTROL: The prevention or reduction of flooding and flood damage.

GROUNDWATER: All water beneath any land surface including water in the soil and bedrock beneath water bodies.

HOTSPOT: Land uses or activities with higher potential pollutant loadings, such as vehicle salvage yards, vehicle fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping and outdoor storage and loading areas of hazardous substances. Refer to Massachusetts Stormwater Management ***Standard 5*** for higher potential pollutant loads, or the most current Massachusetts *Stormwater Management Handbooks*.

INFILTRATION: The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

LAND DISTURBANCE: Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state laws promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, § 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

OPERATION AND MAINTENANCE PLAN: A plan that defines the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a Stormwater Management system to insure that it continues to function as designed.

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Stormwater Authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish the site's pre-development conditions.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, or container from which pollutants are or may be discharged.

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

RECHARGE: The replenishment of underground water reserves.

RESOURCE AREA: Any area protected under, including without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act or Town of Lexington Wetlands Protection Bylaw.

SEDIMENTATION: A process of depositing material that has been suspended and transported in water.

STOP WORK ORDER: An order issued by the Stormwater Agency that requires that all construction activity on a site be stopped.

TOTAL SUSPENDED SOLIDS (TSS): A measure of the filterable solids present in a sample, as determined by the method specified in 40 CFR Part 136.

§ 999-3. Applicability

These Regulations apply to all activities in accordance with Section 114-4A(1) and 4A(3) of the Stormwater Management Bylaw and as described below. Permit issuance is required prior to any site altering activity.

§ 999-4. Administrative Procedures and Requirements

A. Stormwater Management Permit Application

The Applicant shall file with the Stormwater Agency, three (3) copies of a completed application package for a Stormwater Management Permit. The Stormwater Management Application package shall include:

(1) An Application Form with original signatures of all owners and representatives;
(2) Any and all applicable fees;
(3) A list of abutters, certified by the Assessor's Office, to be used by the developer to provide notice at the direction of the Agency;
(4) A list of requested waivers, if applicable. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrate that strict application of the Bylaw or Regulations is not necessary to meet the purposes or objectives of the Bylaw.
(5) A Stormwater Management Plan;
(6) An Erosion and Sediment Control Plan;
(7) An Operation and Maintenance Plan; and
(8) An Estimated Cost to Construct.

B. Entry on Land

Filing an application for a stormwater management permit grants the Stormwater Agency permission to enter the site to verify the information in the application and to inspect for compliance after issuance of the Stormwater Management Permit.

C. Fee Structure

The Stormwater Agency shall obtain with each submission an Application Fee established by the Authority to cover expenses connected with the administration of and application review of the Stormwater Management Permit and a technical Review Fee sufficient to cover professional review. The Agency is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Agency on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

Application and Review Fee: $250.00

D. Permit Application Review Procedures

All applications for a stormwater management permit shall be reviewed and determined by the Stormwater Agency.

(1) Abutter Notification

Once the Agency has accepted a complete application, the developer shall provide notice to all abutters of the projects filing and invite comment to the Agency on said application for a period of not less than seven (7) days. The Agency shall make the application available for inspection by the public during business hours at the Department of Public Works

(2) Final Action

The Agency shall take final action within thirty (30) days of the receipt of a complete application unless such time is extended by agreement between the applicant and the Agency, per subsection D.(3) below. The Stormwater Agency's final action, rendered in writing, shall be filed with the Town Clerk.

(3) Mutual Extension of Time

The required time limits for final action may be extended by written agreement between the applicant and the Stormwater Agency. A copy of such an agreement shall be filed with the Town Clerk.

E. Constructive Approval

Failure of the Stormwater Agency to take final action upon an application within thirty (30) business days of receipt of a complete application shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without Stormwater Agency action, the Stormwater Agency shall issue a Stormwater Management Permit.

F. Appeals of Actions

An appeal of an action by a board, commission or department that has current regulatory authority for a project and/or activity shall be conducted under the applicable appeal provisions of said board, commission and/or department of the Town of Lexington. Such an appeal shall result in the stay of the SMP, until the appeal process of the applicable board, commission and/or department has been resolved. If any changes to the plan result from any such appeal, the SMP may require an amended permit application.

G. Lapse of Stormwater Management Permit

A SMP granted under this Bylaw and Regulations shall expire within three (3) years from the date of final action unless substantial use or construction has commenced. This period shall not include any time required to pursue or await the determination of an appeal referred to in Subsection F, above.

H. Vesting of Rights

Upon amendment of the bylaw or regulations, applicants shall have a one (1) year period following the effective date of the new bylaw or regulations, to use a previously issued SMP. After such time the Stormwater Agency may reevaluate the originally approved Stormwater

Management Plan to determine whether the plan still satisfies the bylaw and regulation requirements. If the Agency finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved before the commencement of land-disturbing activities.

§ 999-5. Stormwater Management Performance Standards

A. Minimum Performance Standards

Except as expressly provided, stormwater runoff from all projects that are subject to regulation under § AAA-4 shall provide stormwater best management practices in accordance with the following Stormwater Management Standards as further defined and specified in the Massachusetts Stormwater Handbook:

(1) No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.

(2) Stormwater management systems shall be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.

(3) Loss of annual recharge to ground water shall be eliminated or minimized through the use of infiltration measures including environmentally sensitive site design, low impact development techniques, stormwater best management practices and good operation and maintenance. At a minimum, the annual recharge from the postdevelopment site shall approximate the annual recharge from the pre-development conditions based on soil type. This Standard is met when the stormwater management system is designed to infiltrate the required recharge volume as determined in accordance with the Massachusetts Stormwater Handbook.

(4) Stormwater management systems shall be designed to remove 80% of the average annual post-construction load of Total Suspended Solids (TSS). This Standard is met when:

(a) Suitable practices for source control and pollution prevention are identified in a long-term pollution prevention plan and thereafter are implemented and maintained;

(b) Structural stormwater best management practices are sized to capture the required water quality volume determined in accordance with Massachusetts Stormwater Handbook; and

(c) Pretreatment is provided in accordance with the Massachusetts Stormwater Handbook.

(5) For land uses with higher potential pollutant loads, source control and pollution prevention shall be implemented in accordance with the Massachusetts Stormwater Handbook to eliminate or reduce the discharge of stormwater runoff from such land uses to the maximum extent practicable. If through source control and/or pollution prevention, all land uses with higher potential pollutant loads cannot be completely protected from exposure to rain, snow, snow melt and stormwater runoff, the proponent shall use the specific structural stormwater BMPs determined by the Stormwater Agency to be suitable for such use as provided in the Massachusetts Stormwater Handbook. Stormwater discharges from land uses with higher potential pollutant loads shall also comply with the requirements of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53, and the regulations promulgated thereunder at 314 CMR 3.00, 314 CMR 4.00 and 314 CMR 5.00.

(6) Stormwater discharges within the Zone II or Interim Wellhead Protection Area of a public water supply and stormwater discharges near or to any other critical area require the use of the specific source control and pollution prevention measures and the specific structural stormwater best management practices determined by the Department to be suitable for managing discharges to such area as provided in the Massachusetts Stormwater Handbook. A discharge is near a critical area, if there is a strong likelihood of a significant impact occurring to said area, taking into account site-specific factors. Stormwater discharges to Outstanding Resource Waters and Special Resource Waters shall be removed and set back from the receiving water or wetland and receive the highest and best practical method of treatment. A "storm water discharge" as defined in 314 CMR 3.04(2)(a)1. or (b) to an Outstanding Resource Water or Special Resource Water shall comply with 314 CMR 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited, unless essential to the operation of the public water supply.

(7) A redevelopment project is required to meet the following Stormwater Management Standards only to the maximum extent practicable: Standard 2, Standard 3, and the pretreatment and structural stormwater best management practice requirements of Standards 4, 5 and 6. Existing stormwater discharges shall comply with Standard 1 only to the maximum extent practicable. A redevelopment project shall also comply with all other requirements of the Stormwater Management Standards and improve existing conditions.

(8) A plan to control construction related impacts including erosion, sedimentation and other pollutant sources during construction and land disturbance activities (construction period erosion, sedimentation and pollution prevention plan) shall be developed and implemented.

(9) A long-term operation and maintenance plan shall be developed and implemented to ensure that the stormwater management system functions as designed.

(10) All illicit discharges to the stormwater management system are prohibited.

B. Additional Landscape Design Performance Standards

Site plans and landscape plans for all proposed projects shall take appropriate steps to minimize water use for irrigation and to allow for natural recharge of groundwater. Native species and habitat creating species shall be used in all landscape plans to the maximum extent possible. Invasive species shall not be planted in the Town of Lexington.

§ 999-6. Stormwater Management Plan Contents

The Stormwater Management Plan shall fully describe the project in drawings, narrative and calculations. The plan shall bear the stamp and signature of a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts to certify that the Stormwater Management Plan is in accordance with the criteria established in the Stormwater Management Bylaw and these Regulations. It shall include, at a minimum:

A. Project Narrative

The project narrative shall include the following elements:

(1) Completed Application Form

(2) Existing Conditions Statement

A description of existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches or other critical environmental resource areas, on or adjacent to the site or into which stormwater flows.

(3) Project Description

The applicant shall document and an evaluation of alternatives for the site, including:

(a) Potential building envelopes avoiding environmental resource areas and appropriate buffers; and

(b) Methods to minimize impervious surfaces, and to protect and preserve open space.

(c) A description of any alternative processes or methods that were contemplated.

(4) Stormwater Impact Statement

A brief description of the project, how and where stormwater will be controlled, including:

(a) A recharge area analysis that calculates pre- and post-construction annual groundwater recharge rates on the parcel;

(b) All measures for the detention, retention or infiltration of water;

(c) Description of non-structural BMPs;

(d) All measures for the protection of water quality;

(e) Expected hydrology with supporting calculations;

(f) Hydrologic and hydraulic design calculations for the pre- and post-development conditions for the design storms specified in these Regulations. Such calculations shall include:

[1] Description of the design storm frequency, intensity and duration;

[2] Time of concentration;

[3] Soil Runoff Curve Number (CN) based on land use and soil hydrologic group;

[4] Peak runoff rates and total runoff volumes for each watershed area;

[5] Provisions for maintaining during construction the infiltration capacity of the soil where infiltration is proposed;

[6] Infiltration rates, where applicable;

[7] Culvert capacities, where applicable;

[8] Flow velocities;

[9] Data on the increase in rate and volume of runoff for the specified design storms, and

[10] Documentation of sources for all computation methods and field test results.

(g) Soils information from test pits performed at the location of proposed stormwater handling structures, including but not limited to stormwater retention, detention or infiltration systems, including but not limited to soil descriptions, depth to estimated seasonal high groundwater, depth to bedrock, and percolation rates. Soils information will be based on site test pits logged by a Massachusetts Certified Soil Evaluator;

(5) Erosion & Sediment Control Statement, containing:

(a) Estimation of the total area (in square footage and percentage) and total volume (in cubic feet) expected to be disturbed by excavation, grading or other construction activities (include dedicated off-site borrow and fill areas).

(b) Description of appropriate erosion control measures, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation.

(c) Description of structural practices to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site.

(d) Description of construction and waste materials expected to be stored on-site and a description of controls, including storage practices, to minimize exposure of the materials to stormwater, and spill prevention and response practices.

(e) Description of interim and permanent slope stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized. Use of impervious surfaces for stabilization should be avoided.

(f) A description of measures to minimize the tracking of sediments and dust off-site.

(6) Operation and Maintenance Plan

The Operation and Maintenance Plan (the O & M Plan) shall be designed to ensure compliance with the Permit, these Regulations and the Massachusetts Surface Water Quality Standards (314 CMR 4.00) in all seasons and throughout the life of the system. When applicable, Stormwater Management easements will be required for all areas used for off-site stormwater control, unless the Stormwater Agency grants a waiver. The O & M Plan shall specify:

(a) The names, addresses and contact information of the property owner;

(b) The names, addresses and contact information of the person(s) responsible for site operation and maintenance;

(c) The person(s) responsible for financing maintenance and emergency repairs;

(d) A list of easements with the purpose of each; and

(e) An Inspection and Maintenance Schedule for all stormwater management facilities, including what routine and non-routine maintenance tasks are to be performed, when they are to be conducted, who is to perform them, and to whom to report results (per ***SECTION***, Annual Reports).

(f) Maintenance Inspections

[1] Stormwater management facilities and practices included in an O & M Plan with a Maintenance Agreement in accordance with ***Section*** 6.M of these Regulations shall undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the Plan and these Regulations.

[2] At a minimum, inspections shall occur once every year. A Maintenance Agreement as specified under ***Section*** 6.M of these Regulations between the

owner and the Stormwater Agency shall be executed for privately owned stormwater management systems that specify the Responsible Party for conducting long term inspections.

(g) Records of Maintenance and Repair Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Stormwater Agency upon request. Parties responsible for the operation and maintenance of a stormwater management facility shall prepare records of the installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available to the Stormwater Agency during inspection of the facility and at other reasonable times upon request.

B. Project Drawings and Specifications

The project drawings shall include the following sheets:

(1) Cover, including:

(a) Project Name

(b) Name(s) and address(es) of owner(s) and applicant(s);

(c) USGS quad map highlighting project site and watershed boundaries;

(d) Index to plan sheets;

(e) Legend, North Arrow and Scale (include both a scale bar and scale text);

(f) Benchmark data, including reference to the starting benchmark;

(g) Date of submission and, if applicable, any revision date(s);

(h) Name(s) and address(es) of the professional engineer or land surveyor who prepared the plans.

(2) Existing Drainage Area, showing:

(a) Pre-construction drainage area(s);

(b) The delineation of all existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches and critical environmental resource areas on, or adjacent to, the site into which stormwater flows;

(c) Vegetation and ground surfaces (include all impervious cover);

(d) Time of concentration (t_c);

(e) Stormwater flow paths, including municipal drainage system flows; and

(3) Proposed Drainage Area, showing:

(a) Post-construction drainage area(s);

(b) The delineation of any existing stormwater conveyances to be retained and any proposed stormwater conveyances, impoundments, wetlands, drinking water resource areas, swimming beaches and critical environmental resource areas on, or adjacent to, the site into which stormwater flows;

(c) Vegetation and ground surfaces (include all impervious cover);

(d) Time of concentration (t_c);

(e) Stormwater flow paths, including municipal drainage system flows; and

(f) Location(s) of any test pit(s).

Test pits should coincide with the location(s) of any proposed stormwater practice(s), including non-structural practices and foundation or perimeter drains.

(4) Existing Conditions, containing:

(a) Existing topography at 2-foot intervals;

(b) Existing site hydrology and soil types;

(c) Delineation of any flood plains, if applicable;

(d) Location(s) of existing easements;

(e) Location(s) of existing utilities;

(5) Proposed Conditions, containing:

(a) Existing and proposed topography (finished grading) at 2-foot intervals;

(b) Proposed vegetation and ground surfaces (include all impervious cover);

(c) Delineation of any flood plains, if applicable;

(d) Location(s) of any existing easements to be retained and any proposed easements;

(e) Final location(s) of utilities;

(f) All structural and non-structural stormwater utilities and/or facilities; and

(g) As necessary, the details of the drainage system components, including stabilization and management techniques to be used within and/or adjacent to any stormwater practice.

(6) Erosion and Sediment Control, containing:

(a) Locations of all bodies of waters (including wetlands);

(b) Direction(s) of stormwater flow and approximate slopes anticipated after major grading activities;

(c) Areas of soil disturbance and areas that will not be disturbed (limit of work line);

(d) Locations of site access/egress, including applicable sediment control measures;

(e) Locations where stabilization practices are expected to occur;

(f) Locations where stormwater discharges to a surface water (include all roads, drains and other structures that could carry stormwater to a wetland or other water body, on or offsite); and

(g) The on-site location(s) to be used for storage of materials, wastes, vehicles, equipment, soil, snow and other potential pollutants. If off-site, note location(s) of storage area(s) and detail applicable sediment control measures;

(7) Operation and Maintenance, showing:

(a) The location of the systems and facilities including all stormwater and low-impact development best management practices, catch basins, manholes/access lids, pipes, and other stormwater devices;

(b) The location(s) of Stormwater Management easements provided by the property owner(s) as necessary for:

[1] Access for facility inspections and maintenance;

[2] Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event;

[3] Direct maintenance access by heavy equipment to structures requiring regular maintenance.

§ 999-7. Construction Implementation & Monitoring

A. Surety

Before the start of any land disturbance or construction activity the Stormwater Agency may require the applicant to post a surety bond, irrevocable letter of credit, cash, or other acceptable security in an amount sufficient to cover the approved Estimated Cost of Construction.

The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Stormwater Agency to ensure that the work will be completed in accordance with the permit. The Stormwater Agency may release part of the bond as each phase is completed in compliance with the permit but the bond may not be released to an amount less than 15% of the original amount until the Stormwater Agency has received the final inspection report as required by ***Section*** 11 of these Regulations and issued a Certificate of Completion.

B. Required Inspections

The Stormwater Agency shall inspect the project site at the following stages:

(1) Pre-construction Meeting. The applicant shall notify the Stormwater Agency seven (7) days before the commencement of construction to arrange for an on-site, pre-construction meeting.

(2) Stormwater Management System Installation. The applicant shall notify the Stormwater Agency before the backfilling of any underground drainage or stormwater conveyance structures to arrange for an on-site inspection..

(3) Erosion Control Inspection(s). To ensure erosion control practices are in accord with the filed Erosion and Sediment Control Plan, Erosion Control Inspections will be conducted by the site owner or an authorized representative at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater, from the start of construction until the site is permanently stabilized. Inspection frequency may be reduced to once a month if the site is temporarily stabilized, runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen), or, if construction is occurring during seasonal dry periods. The applicant is required to notify the Stormwater Agency of any change in inspection frequency, including termination of inspections due to site stabilization using the Erosion Control Inspection Form.

If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit for Storm Water Discharges from Construction Activities (Construction General Permit), then the applicant is required to submit all Inspection Reports to the Stormwater Agency. If the Inspection Reports meet the requirements of the Construction General Permit, it will be considered equivalent to the Erosion Control Inspection as described above.

(4) Final Inspection, upon receipt of final As-Built.

(5) Other inspections may be required as deemed necessary.

C. Changes to approved plan(s)

The applicant shall notify the Stormwater Agency in writing of any changes in the Stormwater Management Plan as authorized in the SMP before any change or alteration is made, including but not limited to drainage practices, change of ownership or responsible parties. If the Stormwater Agency determines that the change or alteration is significant, based on the Stormwater Management Standards in ***Section*** 7 and accepted construction practices, the Stormwater Agency may require that an amended application be filed.

D. Inadequacy of System

If the system is found to be inadequate, before the Certificate of Completion is issued, by virtue of physical evidence of operational failure, even though it was built in accordance with the Stormwater Management Plan, the applicant shall correct it.

§ 999-8. Project Completion

A. "As-Built" Plans

At completion of the project, the applicant shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required in ***Section*** 7. A Registered Professional Engineer must prepare As-built Plans that show the "as built" conditions, including all final grades, developed by. All changes to project design shall be indicated in red on plans (or otherwise noted). All work deleted, corrections in elevations, and changes in materials, shall be shown on the as-built drawings and explained in writing. A Registered Professional Engineer shall certify deviations, if any, from the approved SMP.

As-builts shall be submitted electronically to the Town consistent with the current *Standard for Digital Plan Submission to Municipalities*, published by the Commonwealth's Office of Environmental Information (MassGIS).

B. Certificate of Completion

Upon completion, the Applicant is responsible for certifying that the completed project is in accordance with the approved plans and specifications by submitting As-built Plans to the Stormwater Agency as described in ***Section*** 6.K. The certification statement shall be based on regular inspections that occurred during construction sufficient to adequately document compliance.

Easements shall be properly recorded and/or registered before the Stormwater Agency can issue a Certificate of Completion.

The Stormwater Agency will issue a letter to the Applicant and the Town Clerk, certifying completion upon receipt and approval of the final inspection and reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with the Stormwater Management Bylaw and these Regulations.

§ 999-9. Perpetual Maintenance

The owner of the property on which work has been done pursuant to these Regulations for private stormwater management facilities, or any other person or agent in control of such

property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

§ 999-10. Enforcement

Enforcement powers of the Stormwater Agency are granted in the Stormwater Management Bylaw, ***Section*** 6.

A. Failure to Maintain

(1) If a Responsible Party fails to meet the requirements of the Maintenance Agreement, the Stormwater Authority, after 30 days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The Stormwater Agency may assess the owner(s) of the facility for the cost of repair work, which shall be a lien on the property.

(2) After notification of any deficiencies discovered from an inspection of a stormwater management system is provided to the person responsible for carrying out the maintenance plan, the person responsible for carrying out such plan shall have 30 days, or other time frame mutually agreed to between the Stormwater Agency and the person responsible for carrying out the maintenance plan, to correct the deficiencies. The Stormwater Agency will conduct a subsequent inspection to ensure completion of repairs.

B. Notices and Orders

(1) The Stormwater Agency may issue a written notice of violation or an enforcement order to enforce the provisions of the Stormwater Management Bylaw and the Regulations, which may include requirements to:

(a) Cease and desist construction or land disturbing activity until there is compliance with the Bylaw and the Stormwater Management Permit;

(b) Repair, maintain, or replace the Stormwater Management system or portions thereof in accordance with the O&M Plan;

(c) Perform monitoring, analyses, and reporting; and/or

(d) Fix adverse impact resulting directly or indirectly from malfunction of the Stormwater Management system.

(2) If the Stormwater Agency determine that abatement or remediation of adverse impacts is required, the order may set forth a deadline by which such abatement or remediation shall be completed. Said order may further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Lexington may, at its option, undertake such work, and the property owner shall reimburse the Town of Lexington for expenses incurred.

(3) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Lexington, including administrative costs. The violator

or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Agency within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Stormwater Agency affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and will constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.

C. Fines

Any person who violates any provision of the Town of Lexington Stormwater Management Bylaw, or order or permit issued thereunder, may be ordered to correct the violation and/or fined.

D. Appeals

The decisions or orders of the Stormwater Agency are final. Further relief is to a court of competent jurisdiction.

E. Remedies Not Exclusive

The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 999-11. Severability

The invalidity of any section, provision, paragraph, sentence, or clause of these Regulations shall not invalidate any section, provision, paragraph, sentence or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.